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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/798,459

03/11/2004

Kurt Brooks Uhler

N0184 US

7407

37583 7590 06/11/2008
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EXAMINER

CAO, PHUONG THAO

ART UNIT

PAPER NUMBER

2164

MAIL DATE

DELIVERY MODE

06/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/798,459	Applicant(s) UHLIR ET AL.	
	Examiner Phuong-Thao Cao	Art Unit 2164	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 22-46.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☒ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). 05/29/2008
 13. ☐ Other: _____.

/Charles Rones/
 Supervisory Patent Examiner, Art Unit 2164

Continuation of 11. does NOT place the application in condition for allowance because:

The arguments/Remarks filed on 05/29/2008 have been fully considered but found not persuasive.

Regarding Applicant's argument (Remarks, page 9) that one of ordinary skill in the art would not have combined the electronic environment of Trovato with the system of Paulauskas, et al. because the virtual world experience would be too distracting to a driver, Examiner respectfully disagrees.

Paulauskas, et al. disclose a system for providing entertainment and information not to only the driver but also passengers while traveling (Paulauskas, et al., column 1, lines 55-58). Paulauskas, et al. also disclose that in an alternative embodiment, separate hardware used for the navigation system game features can include a separate user interface, a separate positioning system and a separate geographic database (Paulauskas, et al., column 9, lines 48-60); in this case, playing games by a passenger (e.g., with a headphone) does not interfere with using the navigation system by the driver nor distract the driver. In addition, Paulauskas, et al., also suggest the capability of combining other type of games in the navigation game system (Paulauskas, et al., column 9, lines 60-63) which would have been motivated one of ordinary skill in the art to combine the teaching of Trovato, using electronic maps to generate rich environment (Trovato, column 2, lines 19-35) into the system of Paulauskas, et al., to create game with virtual world experience (e.g., simulated city depicting a real city).

Regarding Applicant's argument (Remarks, page 10) that the combination of Paulauskas, et al., and Trovato does not teach or suggest of a play scenario of a computer game, examiner respectfully disagrees. Generally, every game must have a play scenario (e.g., game rules), which controls how the game is played. In addition, the claimed language "the second dataset is used in computer games that depict real geographic locales as part of play scenarios of the computer games" recites a real geographic locale depicted as just "a part of play scenarios"; almost anything displayed in a game can be broadly considered as "a part of play scenarios". In particular, Trovato discloses using environment in creating games (Trovato, column 2, lines 35-40) wherein the environment can be a simulated city (Trovato, column 2, lines 30-33). Since the simulated city is growing based on an electronic map depict real geographic locales and is used in the game, the simulated city can be considered as a part of play scenarios that depicts real geographic locales as recited.

Regarding Applicant's argument with respect to claims 29 and 44 (Remarks, page 10) that Freedman does not disclose providing at least a portion of the second dataset to each of a plurality of end-user computing platforms in which the end-user computing platforms use the second dataset to represent geographic features in a play scenarios, examiner respectfully disagrees. In order to use data in generating a game application, data from satellite imagery, GPS and geographical survey must be stored in a database. Then, when the game application is provided to user systems, data from the database and necessary for playing game must be provided to the user systems in order for the user to play the game application. In addition, Freedman discloses that the game application, "True Crime: Streets of LA" (Freedman, page 1), can be played on plurality of platforms (e.g., PS2, GameCube, Xbox).

Regarding Applicant's argument with respect to claims 30 and 41 (Remarks, page 10) that cited references do not teach or suggest the feature of accessing the second dataset using an application programming interface, Examiner respectfully disagrees. Generally, data from a database is accessed through an application program and any application must use its application programming interface (i.e., application modules, methods) in order to access and process data.

It is a well settled rule that a reference must be considered not only for what it expressly teaches but also for what it fairly suggests. See *In re Burckel*, 592 F.2d 1175, 201 USPQ 67 (CCPA 1979) and *In re Lamberti*, 545 F.2d 747, 192 USPQ 278 (CCPA 1976) as well as *In re Bode*, 550 F.2d 656, 193 USPQ 12 (CCPA 1977) which indicates such fair suggestions to unpreferred embodiments must be considered even if they were not illustrated. Additionally, it is an equally well settled rule that what a reference can be said to fairly suggest relates to the concepts fairly contained therein, and is not limited by the specific structure chosen to illustrate such concepts. See *In re Bascom*, 230 F.2d 612, 109 USPQ 98 (CCPA 1956).

The Disclosure Statement Information (IDS) filed by Applicant on 05/29/2008 has been received and considered by Examiner. A copy of the reviewed IDS is enclosed with this office letter.